

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PAMLAB, L.L.C., and
BRECKENRIDGE PHARMACEUTICAL,
INC.,

Plaintiffs,

v.

VIVA PHARMACEUTICAL, INC.,

Defendant.

Case No. 2:13-cv-00158

STIPULATED MOTION TO SUBSTITUTE
PARTIES UNDER FED. R. CIV. PROC. 25(c)

Note for Motion Calendar: May 28, 2013

Pursuant to Rule 25(c) of the Federal Rules of Civil Procedure, plaintiff PamLab, L.L.C. (now named Camline, L.L.C.) respectfully requests that Nestlé Health Science – PamLab, Inc. be substituted as a party-plaintiff in place of PamLab, L.L.C. All parties have consented to this motion. Rule 25(c) provides, in pertinent part: “If an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party....”

On February 22, 2013, PamLab, L.L.C. and certain of its affiliates entered into an Asset Acquisition Agreement and Plan of Reorganization (the “Acquisition Agreement”) with NHS Buyer, Inc., pursuant to which PamLab, L.L.C. agreed to transfer substantially all of its assets, including its claims in this lawsuit, to NHS Buyer, Inc. On February 26, 2013, NHS Buyer, Inc.

STIPULATED MOTION TO SUBSTITUTE PARTIES UNDER
FED. R. CIV. PROC. 25(c)

1

2:13-cv-00158

MANSFIELDLAW
121 SW Morrison, Suite 400
Portland, OR 97204
971.271.8615

1 changed its name to Nestlé Health Science – PamLab, Inc.

2 The closing of the Acquisition Agreement occurred on April 1, 2013. In order to
3 effectuate the transfer of assets, PamLab, L.L.C. and certain of its affiliates entered into a Bill of
4 Sale dated April 1, 2013 with Nestlé Health Science – PamLab, Inc. Pursuant to the Acquisition
5 Agreement and the Bill of Sale, Nestlé Health Science – PamLab, Inc. acquired and assumed the
6 rights and claims of PamLab against Viva Pharmaceuticals, L.L.C. in this action. In addition,
7 Nestlé Health Science – PamLab, Inc. acquired PamLab’s intellectual property rights, inventory,
8 raw materials, containers, packaging, packaging supplies, work-in-process, sales literature,
9 promotional literature, certain contracts and licensing agreements, and the goodwill of PamLab’s
10 business. Nestlé Health Science – PamLab, Inc. also acquired PamLab’s registered trademarks
11 “Cerefolin,” “Cerefolin NAC,” “Deplin,” “Metanx,” and “PamLab.” Following the closing,
12 PamLab, L.L.C. changed its name to Camline, L.L.C. on April 3, 2013.

13 Due to the foregoing transfers of assets, Nestlé Health Science – PamLab, Inc. is the real
14 party in interest in pursuing PamLab’s claims in this case, and Nestlé Health Science – PamLab,
15 Inc., as the owner of such claims, should be substituted for PamLab as a party-plaintiff in this
16 action. All parties have consented to this motion. Accordingly, PamLab, L.L.C. respectfully
17 requests that this Honorable Court issue an order substituting Nestlé Health Science – PamLab,
18 Inc. for PamLab, L.L.C. as a party-plaintiff in this action.

19 Dated this 28th day of May, 2013.

20 Respectfully submitted:

21 MANSFIELDLAW

22 /s/Johnathan E. Mansfield

23 Johnathan E. Mansfield, WSBA No. 27779

24 Attorney for Plaintiffs

25 121 SW Morrison, Suite 400

26 Portland, OR 97204

Phone: (971) 271-8615

Email: john@mansfieldlaw.net

STIPULATED MOTION TO SUBSTITUTE PARTIES UNDER
FED. R. CIV. PROC. 25(c)

2

2:13-cv-00158

MANSFIELDLAW
121 SW Morrison, Suite 400
Portland, OR 97204
971.271.8615

CERTIFICATE OF SERVICE

I hereby certify that on the 28nd day of May, 2013, I caused to be served the foregoing
STIPULATED MOTION TO SUBSTITUTE PARTIES UNDER FED. R. CIV. PROC. 25(c) on
the following parties via the Court's CM/ECF system:

Donald W. Washington
Robert L. Waddell
Jones, Walker, Waechter, Poitevent,
Carrere & Denegre, LLP
600 Jefferson Street, Suite 1600
Lafayette, Louisiana 70501
dwwashington@joneswalker.com
rwaddell@joneswalker.com

Michael McKay
Thomas Brennan
McKay Chadwell, PLLC
600 University Street, Suite 1601
Seattle, WA 98101
mdm@mckay-chadwell.com
tmb@mckay-chadwell.com

Of Attorneys for Defendant Viva
Pharmaceutical, Inc.

/s/Johnathan E. Mansfield
Johnathan E. Mansfield

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PAMLAB, L.L.C., and
BRECKENRIDGE PHARMACEUTICAL,
INC.,

Plaintiffs,

v.

VIVA PHARMACEUTICAL, INC.,

Defendant.

Case No. 2:13-cv-00158

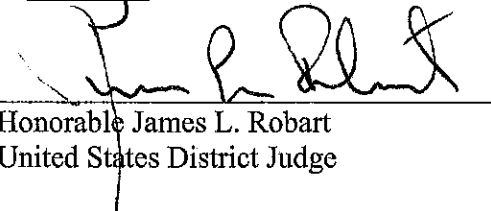
~~PROPOSED~~ ORDER GRANTING
STIPULATED MOTION TO SUBSTITUTE
PARTIES UNDER FED. R. CIV. PROC. 25(c)



This matter came before the Court on Plaintiff PamLab, L.L.C.'s Stipulated Motion To Substitute Parties Under Fed. R. Civ. Proc. 25(c), and having considered the parties' submissions and arguments,

IT IS ORDERED that Plaintiff PamLab, L.L.C.'s Stipulated Motion To Substitute Parties Under Fed. R. Civ. Proc. 25(c) is **GRANTED**.

IT IS SO ORDERED this 30th day of May, 2013.



Honorable James L. Robart
United States District Judge

[PROPOSED] ORDER GRANTING STIPULATED MOTION TO
SUBSTITUTE PARTIES UNDER FED. R. CIV. PROC. 25(c)

- 1

2:13-cv-00158

MANSFIELDLAW
121 SW Morrison, Suite 400
Portland, OR 97204
Telephone 971.271.8615

1 Presented by:

2
3 MANSFIELDLAW

4 /s/Johnathan E. Mansfield

5 Johnathan E. Mansfield, WSBA No. 27779

6 Attorney for Plaintiffs Pamlab, L.L.C., and

7 Breckenridge Pharmaceutical, Inc.

8 121 SW Morrison, Suite 400

9 Portland, OR 97204

10 Phone: (971) 271-8615

11 Email: john@MansfieldLaw.net

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
[PROPOSED] ORDER GRANTING STIPULATED MOTION TO
SUBSTITUTE PARTIES UNDER FED. R. CIV. PROC. 25(c)

- 2

2:13-cv-00158

MANSFIELDLAW
121 SW Morrison, Suite 400
Portland, OR 97204
Telephone 971.271.8615